1	JAMES T. LEE - SBN 110838 TRACEY L. MERRELL – SBN 110838	
2	BARRETT DAFFIN FRAPPIER	
3	TREDER & WEISS, LLP 20955 Pathfinder Road, Suite 300	
4	Diamond Bar, California 91765	
5	(626) 915-5714 — Phone (626) 915-0289 — Fax	
6	jamesl@bdfgroup.com	
7	BDFTW 3439486	
8	Attorney for Plaintiff	
9		
10		
11		DISTRICT COURT
12	CALIFORNIA NORTHERN I	DISTRICT (SAN FRANCISCO)
13	HSBC BANK USA, NATIONAL	CASE NO. 3:13-cv-01968
14	ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES	Honorable Judge Joseph C. Spero
15	ACE 2006-HE1,	Tionorable Judge Joseph C. Spero
16		REQUEST FOR JUDICIAL NOTICE
17	Plaintiff,	IN SUPPORT OF PLAINTIFF'S MOTION TO REMAND
18	VS.	WOTION TO REMAIND
19	MARK SERRATO; SANDRA J.	
20	SERRATO and DOES 1 to 10, inclusive	
21	Defendent	
22	Defendant.	
23	Plaintiff HSBC BANK USA, NAT	TIONAL ASSOCIATION, AS TRUSTEE
24	FOR HOME EQUITY LOAN TRUST S	ERIES ACE 2006-HE1 ("HSBC BANK")
25	hereby requests that this Court take judicis	al notice, under Federal Rules of Evidence
26	201, of the attached documents marked as I	Exhibit 1, and Exhibit 2.
27		
28	Degreet for Indicial Nation in Com-	and of Disintiff's Mation to Domand

28

EXHIBIT 1

SUMMONS (CITACION JUDICIAL) UNLAWFUL DETAINER-EVICTION

(RETENCIÓN ILÍCITA DE UN INMUEBLE-DESALOJO)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

MARK SERRATO; SANDRA J. SERRATO; and DOES 1

10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Additional Parties Attachment form is attached.

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

ENDORSED ALAMEDA COUNTY

DEC 8 1 2012

CLERK OF THE SUPERIOR COURT By Jennifer Daley, Deputy

You have & OALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Heip Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clark for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney

referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfnelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DIAS DE CALENDARIO después de que le entreguen este citación y papetes legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los pinco días, cuente los sábados y los domingos pero no los piros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corté esté cerrada, tiene hasta el próximo día de corte para presentar una respueste por escrito). Una parte o uno llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda user para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California(www.courtinfo.ca.gov/selfnelp/e≤panol/), en la biblioteca de leyes de su condado o en la corte que la quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte la podrá quiter su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llama a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar e un abogado, es posible que cumple con los requisitos para obtener servicios legales gratultos de un programa de servicios legalas sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services. (www.lawhalpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/setfhelp/espanol/) o poniendose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotes y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho

civil. Tiene que pagar el gravam	en de la corte antes de que la cone pueda desacriar el ceso.	890.002000
The name and address of (El nombre y dirección de SUPERTOR COURT	the count is: la corte és): OF THE STATE OF CALIFORNIA	CAGE NUMBER G12661699
24405 AMADOR ST HAYWARD, Califo	rnia 94544	
HAYWARD HALL OF	DUSTICE HAYWARD HALL OF DOSINGE	
 The name, address and tell to direction v 	elephone number of plaintiff's attomey, or plaintiff without a el número de teléfono del abogado del demandante, o del	demandante que no tiene abogado. es);
JAMES T. LEE, S BARRETT DAFFIN 20955 PATHFIND	SBN 110838 FRAPPIER TREDER & WEISS, LLP ER ROAD, SUITE 300	(626) 915-5714
- DIAMOND BAR, CA	4 81/02	de, 88 6400-6415) X did not did
 (Must be answered in all 	cases) An unlawful detainer assistant (Bus. & Prof. Co- vice or assistance with this form. (If plaintiff has received a	
detainer assistant, comple	ete item 6 on the next page.) Clerk, by	· · · · · · · · · · · · · · · · · · ·
Date: Par 9 1 2020		JENNIFER DALET (Adjunto
)).)
(Para prueba de entrega de e	ista citatión use el formulano Prool of Service of Summons	i, () OD-010//.
[SEAL]	1 4. NOTICE TO THE PERSON SERVED: You are ser	ved
, inch.)	a. as an individual defendant.	
Į	b. as the person sued under their fictitious nar	me of (specity):
•	c. as an occupant	•
	d. on behalf of (specify):	:! CCP 416,60 (minor)
	under: CCP 416.10 (corporation)	CCP 416,70 (conservates)
1	CCP 416.20 (defunct corporation)	17.57 110.00 to 15.57 december
	CCP 416.40 (association or partners	other (specify):
	CCP 415.46 (occupant)	Page I c

form Adopted for Mandatory Use Judicial Council of California SUM-130 [Rev. July 1, 2009]

PLAINTIFF (Name): Additional Parties Attachment form is attached.	CASE NUMBER:	
DEFENDANT (Name): MARK SERRATO AND SANDRA J. SERRATO		

- 6. Unlawful detainer assistant (complete if plaintiff has received any help or advise for pay from an unlawful detainer assistant):
 - a. Assistant's name:
 - b. Telephone no.:
 - c. Street address, city, and ZiP:
 - d. County of registration:
 - e, Registration no. :
 - f. Registration expires on (date):

SUM-200(A)

SHORT TITLE: HSBC BANK USA, NATIONAL ASSOCIATION, AS
TRUSTEE FOR HOME EQUITY LOAN v. SERRATO, et al.

INSTRUCTIONS FOR USE

This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.

If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

X Plaintiff Defendant Cross-Complainant Cross-Defendant

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST

Page 3 of 3

SERIES ACE 2006-HE1

File this cover sheet in addition to any cover sheet required by local court rule.

▶ If this case is complex under rule 3,400 et sec, of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 3

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1. check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex. CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)-Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort

Asbestos (04)

Asbestos Property Damage Asbestos Personal Injury/ Wrongful Death

Product Liability (not asbestos or toxic/environmental) (24)

Medical Malpractice (45)

Medical Malpractice-

Physicians & Surgeons Other Professional Health Care

Malpractice

Other PI/PD/WD (23)

Premises Liability (e.g., slip and fall)

Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)

Intentional Infliction of

Emotional Distress

Negligent Infliction of

Emotional distress

Other PI/PD/WD

Non-PVPD/WD (Other) Tort

Business Tort/Unfair Business

Practice (07)

Civil Rights (e.g., discrimination, false arrest) (not civil

harassment) (08)

Defamation (e.g., slander, libel)

(13)

Fraud (16)

Intellectual Property (19)

Professional Negligence (25)

Legal Malpractice

Other Professional Malpractice

(not medical or legal)

Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)

Other Employment (15)

Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract (not unlawful detainer or wrongful eviction)

Contract/Warranty Breach-Seller Plaintiff (not fraud or negligence)

Negligent Breach of Contract/

Warranty

Other Breach of Contract/Warranty

Collections (e.g., money owed, open

book accounts) (09)

Collection Case-Seller Plaintiff

Other Promissory Note/Collections

Insurance Coverage (not provisionally

complex) (18)

Auto Subrogation

Other Coverage

Other contract (37)

Contractual Fraud Other Contract Dispute

Real Property

Eminent Domain/Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (e.g., quiet title) (26)

Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Title

Other Real Property (not eminent

domain, landlord/tenant, or

foreclosure)

Unlawful Detainer

Commercial (31)

Residential (32)

Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ-Administrative Mandamus

Writ-Mandamus on Limited Court

Case Matter

Writ-Other Limited Court Case

Review

Other Judicial Review (39)

Review of Health Officer Order

Notice of Appeal-Labor

Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)

Construction Defect (10)

Claims Involving Mass Tort (40)

Securities Litigation (28)

Environmental/Toxic Tort (30)

Insurance Coverage Claims

(arising from provisionally complex

case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)

Abstract of Judgment (Out of

County)

Confession of Judgment (non-

domestic relations)

Sister State Judgment

Administrative Agency Award

(not unpaid taxes)

Petition/Certification of Entry of

Judgment on Unpaid Taxes

Other Enforcement of Judgment

Case

Miscellaneous Civil Complaint

RICO (27)

Other Complaint (not specified

above) (42)

Declaratory Relief Only

Injunctive Relief Only (non-

harassment)

Mechanics Lien

Other Commercial Complaint

Case (non-tort/non-complex)

Other Civil Complaint

(non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate

Governance (21)

Other Petition (not specified

above) (43)

Civil Harassment

Workolace Violence Elder/Dependent Adult

Abuse

Election Contest

Petition for Name Change

Petition for Relief From Late

Claim

Other Civil Petition

SHORTTITLE: HSBC BANK USA, .ATIONAL ASSOCIATION, CA. NUMBER: AS TRUSTEE FOR HOME EQUITY LOAN v. SERRATO, et al.

CASE NAME

 $\ensuremath{\mathsf{HSBC}}$ BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN v. SERRATO, et al.

0.0

This page may be used with any Judicial Council form or any other paper filed with the court.

(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line

Page 3 of 3

Form Approved by the Judicial Council of California MC-020 [Rev January 1, 1987]

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT. 1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Compleint. 2. If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint. 3. If you do not file this form, you will be evicted without further hearing. FOR COURT USE ONLY TELEPHONE NO.: CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address); ATTORNEY FOR (Name): NAME OF COURT: SUPERIOR COURT OF THE STATE OF CALIFORNIA STREET ADDRESS: COUNTY OF ALAMEDA MAILING ADDRESS: 24405 AMADOR ST CITY AND ZIP CODE: HAYWARD, CALIFORNIA 94544 BRANCH NAME: HAYWARD HALL OF JUSTICE-HAYWARD HALL OF JU PLAINTIFF: ***SEE ADDITIONAL PAGE*** DEFENDANT: MARK SERRATO; SANDRA J. SERRATO; and DOES 1 to 10. inclusive PREJUDGMENT CLAIM OF RIGHT TO POSSESSION HG12 (To be completed by the pro DATE OF SERVICE: Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detainer (evic-(Date that this form is served or delivered. and posted, and mailed by the officer of tion) Complaint was filed. process server) 3. You still occupy the premises. DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY: My name is (specify): I reside at (street address, unit No., city and ZIP code): The address of "the premises" subject to this claim is (address): , the landlord or the landlord's authorized agent filed a complaint to recover On (insert date): possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.) 5. I occupied the premises on the date the complaint was filed (the date in Item 4). I have continued to occupy the premises ever since, 6. I was at least 18 years of age on the date the complaint was filed (the date in item 4). I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4). 8. I was not named in the Summons and Complaint. 9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action (Filing Fee) I understand that I must go to the court and pay a filing fee of \$ or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right of possession. (Continued on reverse) Code of Civil Procedure 65 416 45 PREJUDGMENT CLAIM OF RIGHT TO POSSESSION 715010,715020 117425 Page 1 of 3 CP10.5 (New January 1, 1991)

EVGA_PrejudgClaim_RtPoss.rpt(02/23/2011)/ Ver-20 00000003439486

PLAINTIFF (Name): ***SEE ADDITIONAL PAGE***	CASE NUMBER
DEFENDANT (Na	me) MARK SERRATO; SANDRA J. SERRATO; and o 10, inclusive	
•		
[NOTICE: If you fail to file this claim, you will be evicted with	out further hearing.
(Response requi a response to the	red within five days after you file this form). I understand that I have five de e Summons and Complaint after I file this Prejudgment Claim of Right to Po	ays (excluding court holidays) to file ossession form.
a, an oral re b. a written c. an oral re d. a written e. other (ex		
clare under penal	ty of perjury under the laws of the State of California that the foregoing is true a	nd correct.
	WARNING: Perjury is a felony punishable by imprisonment in the	state prison
Date:		
	(TYPE OR PRINT NAME)	(SIGNATURE OF CLAIMANT)
	NOTICE: If you file this claim of right to possession, the unlawful detainer you will be determined at trial. At trial, you may be found liable for recases, treble damages.	(eviction) action against at, costs, and, in some

- NOTICE TO OCCUPANTS -

YOU MUST ACT AT ONCE if all of the following are true:

- 1. You are NOT named in the accompanying Summons and Complaint.
- 2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is the court filing date on the accompanying Summons and Complaint.)
- 3. You still occupy the premises.

(Where to file this form) You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the reverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.

(What will happen if you do not file this form) If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you will be evicted without a hearing.

PLAINTIFFS

2

3

4

5

6

8

9

0

2

3

4

5

6

8

9

.0

!2

!3

24

<u>?</u>5

?6

27

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HE1

(Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, not line numbers):

This page may be used with any Judicial Council form or any other paper filed with the court.

JAMES T. LEE State Bar No. 110838 BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP 3 20955 Pathfinder Road, Suite 300 Diamond Bar, CA 91765 4 (626) 915-5714 - Phone (909) 595-7640 - Fax 5 JAMESI @BDFGROUP.COM 6 Attorneys for Plaintiff 7 8 9

ENDORSED

DEC 8 1 2012

CLERK OF THE SUPERIOR COURT By Janniler Daley, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF ALAMEDA, HAYWARD HALL OF JUSTICE

HSBC BANK USA, NATIONAL EQUITY LOAN TRUST SERIES ACE 2006-HE1

CASE NO.

HG12661699

ASSOCIATION, AS TRUSTEE FOR HOME

COMPLAINT FOR UNLAWFUL DETAINER

(DEMAND UNDER \$10,000)

Plaintiff,

(Action based on Cal. Code of Civ. Pro. §§ 116 la(b)(3))

MARK SERRATO, SANDRA J. SERRATO; and DOES 1 to 10, inclusive,

Defendants.

20 21

22

Ì

2

10

11

12

13

14

15

16

17

18

19

Plaintiff alleges the following:

23

24

25

26

Plaintiff HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR 1. HOME EQUITY LOAN TRUST SERIES ACE 2006-HE1 is the current owner of certain real property and improvements thereon commonly known as 19390 COREY WY, CASTRO VALLEY, CALIFORNIA 94546 following a non-judicial foreclosure sale held in accordance with

27

COMPLAINT FOR UNLAWFUL DETAINER

- 19

California Civil Code §§ 2924 et seq. Plaintiff's title was duly perfected by Trustee's Deed Upon Sale recorded on November 16, 2012 as Instrument No. 2012385299 in the Office of the Alameda County Recorder, a true and correct copy of which is attached hereto as Exhibit "1" and incorporated herein by this reference.

- 2. Defendants, MARK SERRATO AND SANDRA J. SERRATO, are the current occupants of the real property and were the original trustors under the foreclosed deed of trust or the successors-in-interest to such original trustors and the last vested owners of record as of the foreclosure sale date.
- 3. The true names and capacities, whether individual, corporate, associate or otherwise of defendants named herein as DOES 1 through 10, and of each of them, are unknown to plaintiff who therefore sues said defendants by their fictitious names as allowed by California Code of Civil Procedure § 474. Plaintiff asks leave of the court to amend its complaint to include the true names and capacities of said defendants when the same have been ascertained.
- 4. Plaintiff is informed and believes and based thereon alleges that each defendant sued herein as DOE 1 through 10, inclusive, claims a possessory interest in the real property hereafter described as a tenant or successor-in-interest to the former owner.
- 5. On December 10, 2012, Defendants, MARK SERRATO AND SANDRA J. SERRATO, were duly served in the manner prescribed by Cal. Code of Civ. Pro. § 1162 with written notice demanding that they surrender possession of the real property to plaintiff not later than three days following service of said written notice. True and correct copies of said written notice with corresponding proof of service are attached hereto as Exhibits "2" and "3," respectively.

and incorporated herein by this reference.

- 6. More than three days have elapsed since the service of said written notice, but defendants have failed and refused to surrender possession of said real property and continue to occupy the real property without plaintiff's authorization or consent.
- 7. The fair and reasonable rental value of the real property is \$50.00 per day. Plaintiff is entitled to recover a money judgment against defendants for their continued occupancy of the real property at this daily rate from and after expiration of the notice to quit through the date of judgment.
- 8. Plaintiff is entitled to restitution and possession of the real property from defendants named herein pursuant to California Code of Civil Procedure §§ 1161a(b)(3) and therefore requests a judgment enforceable by any authorized law enforcement agency.

WHEREFORE, plaintiff prays judgment as follows:

- 1. For judgment awarding plaintiff restitution and possession of the real property;
- 2. For monetary damages according to proof;
- 3. For costs of suit incurred herein;
- 4. For such other and further relief as the court deems proper.

Date: December 21, 2012

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP

AMES LEE, Attorneys for Plaintiff

SBN 110838

COMPLAINT FOR UNLAWFUL DETAINER

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing UNLAWFUL DETAINER SUMMONS AND COMPLAINT		
and	know its content	S.
CHECK APPLICABLE PARAGRAPHS		
l am a party to this action. The matters stated in the foregoing document are true of my own knowledge matters which are stated on information and belief, and as to those matters I believe them to be true.		
l am an Officer a partner a of		
a party to this action, and am authorized to make this verification for and on its behalf, and I make th	s verification fo	r that
reason. I am informed and believe and on that ground allege that the matters stated in the for	egoing documer	nt are
true. The matters stated in the foregoing document are true of my own knowledge, except as to the	se matters whic	h are
stated on information and helief, and as to those matters I believe them to be true.		
X I am one of the attorneys for HSBC BANK USA, NATIONAL ASSOCIATION, AS T	RUSTEE FO	make
a party to this action. Such party is absent from the county of aforesaid where such attorneys have the this verification for and on behalf of that party for that reason. I am informed and believe and on the	at ground alleg	e that
the matters stated in the foregoing document are true.		
Everyted on DECEMBER 21, 2012 at DIAMOND BAR	, Californ	nia.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and corr	ect.	
JAMES T. LEE, SBN 110838	•	
Type or Print Name Signature		
PROOF OF SERVICE		
1013a (3) CCP Revised 5/1/88		
STATE OF CALIFORNIA, COUNTY OF		
l am amployed in the county of	, State of Califor	rnia.
am over the age of 18 and not a party to the within action; my business address is:		
On, I served the foregoing document described as		
On, I served the foregoing document described as		
on	in this ac	tion
by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached maili	ng list:	
by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:)WS.	
BY MAIL		
* I deposited such envelope in the mail at	, Calif	fornia.
The envelope was mailed with nostage thereon fully prepaid.		•••
As follows: I am "readily familiar" with the firm's practice of collection and processing corre	spondence for m	nalling. naid at
Under that practice it would be deposited with the U.S. postal service on that same day with postage the California in the ordinary course of business. I am awar	e that on motion	of the
California in the ordinary course of business. I am awar party served, service is presumed invalid if postal cancellation date or postage meter date is more than	one day after	date of
λ and λ in the λ in λ in λ in λ		
Executed on, at, at	, Cai	погна.
**(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.	Cal	lifornia
Executed on, at, at	, Cal	morrid.
(State) I declare under penalty of perjury under the laws of the State of California that the above is true	eation the conf	חבשו בח
(Federal) I declare that I am employed in the office of a member of the bar of this court at whose dir made.	ection the servi	ce was
Type or Print Name Signature	EITING ENVELOPE IN	
"(BY MAIL SIGNATURE MUST BE OF PERSON DEPOS MAIL SLOT, BOX OR BAG) "YFOR PERSONAL SERVICE SIGNATURE MUST BE TH		

EXHIBIT 1

RECORDING REQUESTED BY:

NDEx West, LLC 15000 Surveyor Blvd., Suite 500 Addison, Texas 75001

WHEN RECORDED MAIL TO AND MAIL TAX STATEMENT TO: HSBC BANK USA, NATIONAL ASSOCI .et al P.O. BOX 2103 BUFFALO NY 14240

COPY of Document Recorded

Alameda at

County Recorder

2012385299

11/16/2012

has not been compared with original. Original will be returned when process has been completed.

Fee: 21.00

DTT: 0.00

Total

21.00

TS No.: 20090134002331

Order No.: 913869

Space above this line is for Recorder's use only

CORRECTIVE TRUSTEE'S DEED UPON SALE

This Trustees Deed Upon Sale is being recorded to replace the Trustees Deed Upon Sale recorded on August 27, 2012 as Instrument No. 2012279879 to correct the Grantee Name

The undersigned grantor declares:

- 1) The Grantee herein WAS the foreclosing beneficiary.
- 2) The amount of the unpaid debt together with cost was: 3) The amount paid by the grantee at the trustee sale was:
- \$557,171.69 \$350,000.00

- 4) The documentary transfer tax is \$0.00
- 5) Said property is in the city of CASTRO VALLEY
- 6) APN #084C-0783-012

and NDEX West, LLC (herein called Trustee), as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without covenant or warranty, express or implied, to:

HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR ACE SECURITIES CORP. HOME EQUITY LOAN TRUST, SERIES 2006-HE1, ASSET BACKED PASS-THROUGH CERTIFICATES

(herein called Grantee), all of its right, title and interest in and to that certain property situated in the County of ALAMEDA, State of Catifornia, described as follows:

"See Legal Description Attached as Exhibit 'A'"

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated 10/13/2005 and executed by MARK SERRATO AND SANDRA J. SERRATO Trustor(s), and recorded on 10/27/2005 as Instrument No. 2005462885 of official records of ALAMEDA County, California and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the Office of the Recorder of said County, and such default still existed at the time of sale.

All requirements of law regarding the mailing of copies of notices or the publication of a copy of the Notice of Default or the personal delivery of the copy of the Notice of Default and the posting and publication of copies of the Notice of a Sale have been complied with.

TS No.: 20090134002331

Order No.: 913869

Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public auction on 8/22/2012. Grantee, being the highest bidder at said sale, became the purchaser of said property for the amount bid being \$350,000.00 in lawful money of the United States, or by credit bid if the Grantee was the beneficiary of said Deed of Trust at the Time of said Trustee's Sale.

Dated: November 14, 2012

NDE: West, LIC as Truster

By: Reardo Junez, Assistant Director, Operations

STATE OF TEXAS

COUNTY OF DALLAS

On November 14, 2012 before me, Rebecca Ann Hetherington, personally appeared Ricardo Juarez, Assistant Director, Operations, who proved to me on the basis of satisfactory evidence (identified by TX DL) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I ceritfy under PENALTY OF PERIURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature /

Rebecca Ann Hetherington Notary Public State of Texas

My Comm. Exp. 01-29-2013

TS No.: 20090134002331

Order No.: 913869

EXHIBIT A

PORTION OF THE 1.20 ACRE TRACT OF LAND DESCRIBED IN THE DEED BY MARTIN I. MADISON TO FRED SMITH AND EMMA D. SMITH, DATED JUNE 15, 1943, RECORDED JUNE 26, 1943 IN BOOK 4376 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 275, UNDER SERIES NO. QQ/31097, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERN LINE OF SAID 1.20 ACRE TRACT WITHIN THE NORTHERN LINE OF HEYER AVENUE OR COUNTY ROAD NUMBER 7636; RUNNING THENCE ALONG SAID LINE OF HEYER AVENUE 86 DEGREES 45' EAST, 89.82 FEET; THENCE NORTH 3 DEGREES 15' EAST, 115.50 FEET; THENCE NORTH 86 DEGREES 45' WEST, 89.82 FEET TO THE WESTERN LINE OF SAID 1.20 ACRE TRACT; AND THENCE ALONG THE LAST NAMED LINE SOUTH 3 DEGREES 15' WEST, 115.50 FEET TO THE POINT OF BEGINNING.

EXHIBIT 2

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AND COUNSELORS AT LAW

20955 PATHFINDER ROAD SUITE 300 DIAMOND BAR, CALIFORNIA 91765 TELEPHONE: (626) 915-5714 TELECOPIER: (909) 595-7640

December 07, 2012

NOTICE TO ANY RENTERS LIVING AT PROPERTY: 19390 COREY WY, CASTRO VALLEY, CALIFORNIA 94546

Our File No.: 00000003439486

The attached notice means that your home was recently sold in foreclosure and the new owner plans to evict you.

You should talk to a lawyer NOW to see what your rights are. You may receive court papers in a few days. If your name is on the papers it may hurt your credit if you do not respond and simply move out.

Also, if you do not respond within five days of receiving the papers, even if you are not named in the papers, you will likely lose any rights you may have. In some cases, you can respond without hurting your credit. You should ask a lawyer about it.

You may have the right to stay in your home for 90 days or longer, regardless of any deadlines stated on any attached papers. In some cases and in some cities with a "just cause for eviction law," you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

You may have the right to stay in your home for longer than 90 days. If you have a lease that ends more than 90 days from now, the new owner must honor the lease under many circumstances. Also, in some cases and in some cities with a "just cause for eviction law," you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

How to Get Legal Help

If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpca.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Barrett Daffin Frappier Treder & Weiss, LLP

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

ATTORNEYS AND COUNSELORS AT LAW

20955 PATHFINDER ROAD SUITE 300 DIAMOND BAR, CALIFORNIA 91765 TELEPHONE, (026) 915-5714 TELECOPIER (909) 595-7640

December 07, 2012

MARK SERRATO AND SANDRA J. SERRATO AND OTHER UNKNOWN OCCUPANTS 19390 COREY WY CASTRO VALLEY, CALIFORNIA 94546

THREE DAY NOTICE TO QUIT (Code Civ. Proc. §§ 1161a(b)(3); 15 U.S.C. §§ 5201, 5220)

YOU ARE HEREBY NOTIFIED that HSBC BANK USA, NATIONAL ASSOCIATION. AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HE1 is the new owner of the real property located at 19390 COREY WY, CASTRO VALLEY, CALIFORNIA 94546 ("the Property"), having acquired title at or following a non-judicial foreclosure sale held in accordance with Civ. Code § 2924 et seq. under the power of sale contained in that certain Deed of Trust executed by MARK SERRATO AND SANDRA J. SERRATO, as trustor, and recorded on October 27, 2005 as Instrument No. 2005462885 in the Office of the ALAMEDA County Recorder. The new owner's title has been duly perfected by Trustee's Deed Upon Sale, or by Grant Deed, recorded in the Office of the ALAMEDA County Recorder. State law allows the new owner to remove tenants or subtenants by appropriate legal action unless local ordinances impose just cause eviction controls. Federal law provides additional protections for certain "bona fide" tenants under the Protecting Tenants at Foreclosure Act of 2009 and tenants who receive federally-subsidized housing assistance under Section 8 of the United States Housing Act.

YOU ARE FURTHER NOTIFIED that your occupancy rights shall terminate effective THREE (3) calendar days after service of this Notice. You must vacate and surrender possession of the Property before that date, or we will commence legal proceedings against you to declare your occupancy rights forfeited, to obtain restitution and possession of the Property and to obtain a money judgment against you for holdover damages and recoverable court costs.

PLEASE BE ADVISED THAT THIS LAW FIRM IS A DEBT COLLECTOR.
ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE.

IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS: PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT

If you are a servicemember on "active duty" or "active service," or a dependent of such a servicemember, you may be entitled to certain legal rights and protections, including protection from eviction, pursuant to the Servicemembers Civil Relief Act (50 U.S.C. App. §§ 501-596), as amended, (the "SCRA") and, possibly, certain related state statutes. Eligible service can include:

- 1. Active duty (as defined in Section 101(d)(1) of Title 10, United States Code) with the Army, Navy, Air Force, Marine Corps or Coast Guard;
- 2. Active service with the National Guard;
- 3. Active service as a commissioned officer of the National Oceanic and Atmospheric Administration;
- 4. Active service as a commissioned officer of the Public Health Service; or
- 5. Service with the forces of a nation with which the United States is allied in the prosecution of a war or military action.

Eligible service also includes any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

If you are such a servicemember, or a dependent of such a servicemember, you should contact our eviction department at (626) 915-5714 to discuss your status under the SCRA.

BDFTW # 00000003439486

JAMES T. LEE

Attorneys for HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HEI

EXHIBIT 3

П
\Box
\prec
П
×
U
Ш
刀
O
Z
O
2
ည
0
ယ

Attorney of Party Without Attorney (i Barrett, Daffin, Frappie	r,Treder & Wei	ss Suite 300	(626)91	eleptrone No: 5-5714	FOR COURT USE ONLY
20955 Pathfinder Roa Diamond Bar Attorney For:PLAINTIFF	C/		Reference No. 3596594	umber: 3439486	
Plaintiff/Petitioner: Defendant/Respondent:	HSBC Bank US Mark Serrato, e	A, National Association et al.			
PROOF OF S	ERVICE	Hearing Date;	Time;	Dept./Div.:	Case Number NOTICE

I, the undersigned declare that at the time of the service of the papers herein referred to, I was at least EIGHTEEN (18) years of age, and that I served the following notice:

Three Day Notice to Quit and Notice to Tenant Coversheet

On the following tenant(s): Mark Serrato

Address: 19390 Corey Wy

Castro Valley, CA 94546

Date and Time of Posting: 12/10/2012 at 12:25pm.

There being no person of suitable age or discretion to be found at the property, and a business address could not be ascertained, service was effected BY POSTING a copy for the above-named entity(s) in a conspicuous place on the property therein described, and thereafter by MAILING by first-class mail on said date a copy to each entity(s) by depositing said copies in the U.S. Mail in a sealed envelope with postage fully pre-paid, addressed to the above-named entity(s) at the place where the property is situated.

7. Person Serving (name, address, and telephone No.):

Attorney Service of San Dimas

142 East Bonita Avenue, #51 San Dimas, CA 91773 (909)394-1202 Fax (909)394-1204 Fee for service: \$80.00

Andrew Williams

Registered California Process Server.

- (i) Independent Contractor
- (ii) Registration No.: 37
- (iii) County: San Benito

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 12/13/2012

(Signature)

Т
Ţ
\Box
~
П
Þ
\leq
•
Ų
П
Z
C
Į
C
2
دين
0
ယ

Attorney of Party Without Attorney (Name and Address) Barrett, Daffin, Frappier, Treder & Weiss						Telephon (626)915-57		FOR COURTUSE ONLY
20955 Pathfinder Roa Diamond Bar Attorney For:PLAINTIFF	C	Suite 300 CA 91765			6	Reference Number: 3596595	r: 3439486	
Plaintiff/Petitioner: Defendant/Respondent:	HSBC Bank US Mark Serrato,	•	Association					
PROOF OF SI	ERVICE	Hearing Date:			Time		DeptJ/Dlv	Case Number NOTICE

I, the undersigned declare that at the time of the service of the papers herein referred to, I was at least EIGHTEEN (18) years of age, and that I served the following notice:

Three Day Notice to Quit and Notice to Tenant Coversheet

On the following tenant(s): Sandra J. Serrato

Address: 19390 Corey Wy

Castro Valley, CA 94546

Date and Time of Posting: 12/10/2012 at 12:25pm.

There being no person of suitable age or discretion to be found at the property, and a business address could not be ascertained, service was effected BY POSTING a copy for the above-named entity(s) in a conspicuous place on the property therein described, and thereafter by MAILING by first-class mail on said date a copy to each entity(s) by depositing said copies in the U.S. Mail in a sealed envelope with postage fully pre-paid, addressed to the above-named entity(s) at the place where the property is situated.

7. Person Serving (name, address, and telephone No.):

Attorney Service of San Dimas

142 East Bonita Avenue, #51 San Dimas, CA 91773

(909)394-1202 Fax (909)394-1204

Fee for service: \$ \$0.00

Andrew Williams

Registered California Process Server:

- (i) Independent Contractor
- (ii) Registration No.: 37
- (iii) County: San Benito

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 12/13/2012

(Signature)

_		1
	T	
r		•
	į	
ţ	Į]
	-<	
F	Į	1
	Þ	
		,
	>	
-	τ	J
Ī	Ţ	7
	Į	J
,	_	`
,		,
,	^	J
(,	7
Ì	こえて、	٥
č	٠,	۲
(_
(ر	ر

Attorney of Party Without Attorney (I Barrett, Daffin, Frappie	Cuito 300			Telepho (626)915-5	·	FOR COURT USE ONLY		
20955 Pathfinder Road Diamond Bar Attorney For:PLAINTIFF	A	Suite 300 91765		u	Reference Number: 3596596	3439486		
Plaintiff/Petitioner: Defendant/Respondent:	HSBC Bank US Mark Serrato, e	-	Association					
PROOF OF SI	ERVICE	Hearing Date;			Time:		Dept./Dtv.;	Case Number NOTICE

I, the undersigned declare that at the time of the service of the papers herein referred to, I was at least EIGHTEEN (18) years of age, and that I served the following notice:

Three Day Notice to Quit and Notice to Tenant Coversheet

On the following tenant(s): All Occupants in Care of Named Tenant, Mark Serrarto; Sandra J. Serrato

Address: 19390 Corey Wy

Castro Valley, CA 94546

Date and Time of Posting: 12/10/2012 at 12:25pm.

There being no person of suitable age or discretion to be found at the property, and a business address could not be ascertained, service was effected BY POSTING a copy for the above-named entity(s) in a conspicuous place on the property therein described, and thereafter by MAILING by first-class mail on said date a copy to each entity(s) by depositing said copies in the U.S. Mail in a sealed envelope with postage fully pre-paid, addressed to the above-named entity(s) at the place where the property is situated.

7. Person Serving (name, address, and telephone No.):

Attorney Service of San Dimas

142 East Bonita Avenue, #51 San Dimas, CA 91773

(909)394-1202 Fax (909)394-1204

Fee for service: \$ \$0.00

Andrew Williams

Registered California Process Server:

- (i) Independent Contractor
- (ii) Registration No.: 37
- (iii) County: San Benito

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 12/13/2012

(Signature)

EXHIBIT 2

NOTICE OF REMOVAL

On December 31, 2012, HSBC BANK USA, NATIONAL ASSOCIATION, et al, ("Plaintiff") filed an unlawful detainer action in the Superior Court of California, County of Alameda Defendant's demurrer to the complaint for unlawful detainer was based on a defective Notice to Occupants to Vacate Premises A. true and correct copy of the relevant pleadings, i.e. summons and complaint, and demurrer to complaint, are attached hereto as **Exhibit "A" and Exhibit "B"**, respectively.

- 2. This removal is therefore timely because it is not barred by the provisions of 28 U.S.C. §1446(b).
- 3. There are no other named Defendants in the action.
- 4. No previous request has been made for the relief requested.
- 5. The Superior Court of California for the County of Alameda is located within the Northern District of California. Sec 28 U.S.C. § 84(c)(1). Thus, venue is proper in this Court because it is the "district and divisions embracing the place where such action is pending." 28 U.S.C § 1441(a).
- 6. This Action is removable to the instant Court because it originally could have been filed in this Court pursuant to 28 U.S.C § 1441(a) and/or (b). The complaint presents federal questions. Supplemental jurisdiction exists with respect to any remaining claims pursuant to 28 U.S.C. §1367.
- II. FEDERAL QUESTION: REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. §1331 and §1441.
 - 7. The complaint for Unlawful Detainer is subject to strict notice requirements.

- 8. Defendant filed a demurrer to the Complaint based on a defective notice, i.e., the Notice to Occupants to Vacate Premises, failed to comply with The Protecting Tenants at Foreclosure Act [12 U.S.C. §5220].
- 9. Notwithstanding said violation of 12 U.S.C. §5220, the Superior Court for the County of Alameda did not sustain the demurrer.
- 10. Federal question jurisdiction exists because Defendants' demurrer, a pleading depend on the determination of Defendants' rights and Plaintiff's duties under federal law. Wherefore, Mark Serrato, respectfully removes this action from the California Superior Court for the County of Alameda to this Court pursuant to 28 United States Code Sections 1331 and 1441.

Respectfully submitted,

Dated: APRIL 29 ____, 2013

Mark Serrati

In pro per

CERTIFICATE OF SERVICE 1 2 I, the undersigned, declare that I am over the age of 18 and am not a party ____, California; my home to his action. I reside in the City of ALAMEDA 3 address is 7/49 OTIS DE California 9 4501 4 5 On the date below, I served a copy of the following document entitled: 6 NOTICE OF REMOVAL 7 on all interested parties in said case addressed as follows: 8 9 JAMES T. LEE 10 BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP 20955 PATHFINDER ROAD, SUITE 300 11 **DIAMOND BAR, CA 91765** PHONE: (626) 915-5714 12 FAX: (909) 595-7640 13 14 15 SERVICE BY MAIL: By depositing the envelope on the date below for mailing with the United States Postal Service in ALAMEDA. 16 California, in sealed envelope(s) with postage fully paid thereon. 17 FEDERAL: I declare under penalty of perjury under the laws of the United 18 States of America that the foregoing is true and correct. I declare that I am a resident _____, State of California. This declaration is executed of the City of ALAMESA 19 , California, on 20 21 22 23 24 25 26 27 28 -4-

SUMMONS (CITACION JUDICIAL) UNLAWFUL DETAINER-EVICTION (RETENCIÓN ILÍCITA DE UN INMUEBLE-DESALOJO)

NOTICE TO DEFENDANT:

(AVI: O AL DEMANDADO):

MARK SERRATO: SANDRA J. SERRATO; and DOES 1 to

inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÀ DEMANDANDO EL DEMANDANTE):

Additional Parties Attachment form is attached.

ENDA GAME ON STATE ON STATE ON STATE ON STATE ON STATE OF THE OWNER OWNER OF THE OWNER OW

DEC 3 1 2012

CLERK OF THE SUPERIOR COURT Sk fellulific Bulen Bulenta

You have 5 CALENDAR DAYS offer this summons and legal papers are served on you to like a written response at this court and trave a non-served on the gloritifi. (To calculate the five days, count Saturday and Sunday, but do not count offer court holidays. If if e test day tails on a Sulurday, Sunday, or a court holiday liten you have the next court day to file a written response.) A letter or phone cult will not protect you. You written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response You can lind these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.co.pov/selfhelp). Your county last abrary, or the courthouse nearest you. If you cannot pay the tiking fee, oak the court clock for a fee waiver form, if you do not like your response on large you may lose the case by default, and your wages, money, and properly may be taken without further warming from the court

There are other tegal requestments. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be oligible for free legal xervices from a nonprolif legal cervices program. You can locate these nonprofit groups at the California Legal Services Wab site (www.lawholpcolitornia.org), the California. Courts Onlic a Self-I telp Center (www.coultinto.co.poviselfholp), or by contacting your local could be county but association. NOTE: The court has a statulory lieu for waived fees and costs on any selftement or amilration award of \$10,000 or more in a civil case. The court's ion must be paid before the court will dismiss the case.

Tiene S DIAS DE CALENDARIO después de que le antroquen osto outroina y papetes legales para presentir una innerenta por inscrito en esta cerro y bacer que se entregue uma copie al domandante. (Dara calculur los cureo dias, quante los sábados y los domingos pete no los enes dias lengrico de la corte. Si al último día que en sobrido o domingo, o en un dia un que la corte certade, tiene hasta el premio dia de corte para presuntar one insponsible per escribit. Line care o unu llomodu teletidores no la protogon. Su respueste per escrito tiene que exter on tormate legal expects a desea que procesan au caso en lo corta. Es posible que haya un formulario que ustad puedo usor poro su respuesta. Funda encuntrar ostos termologos de la serte y más información en el Contro de Ayuda de las Cortes de California (esse coudinfo da goy seitholighespure) (e en la biblioteca de luyes de su condada e en la code que la quede inde cema. El no puede pager la cuata du presivilación, a da al secretario de la cuate дин је дв ун гранцино до охинијон де радо де cuptas. Ŝi по prosentu su respuenta a lampo, puede perdor el сако иот тоитрителта у la corte te podro quiar su sublido, dinoro y bienes sin más udvertencia

Hay bros requestios legales. Es recomendable que flume o un nhogado immediatomenta. Si no comovo o un abogado, priede flamar o un servicio. do remisión a abogados. Si no puede pagar a un abogado, es posibio que cumpla con los requisitos para obtenos servivos legales quandos de un programa de servicios legales sin línes de lucio. Puede encontrar estos grupos sun línes de fucto en el sitio ved de California Legal Servicas. proce luminalpositionno orgi, en el Centro de Ayuda de las Cortes de California, (welle soudinfa culgos/selfhelplespanet), o porrendase en culturlo con la conte o di culugio de abagados loculos. AVISO: Por ley, lu sude tiene demotro a recluintri las cuotas y los custos exentos por imponer un gravamne sobre qualquier recuperación de \$10,000 ó más de valer mediante un priendo o una concesión de minimic un aciso de describir. siyit. Fienc quit pagur el quivamen de la code unitro de que la codo pueda desegher el caso.

The name and address of the court is: (Finding the color of the state of California 24405 AMADOR ST HAYWARD, California 94544 COUNTY OF ALAMEDA

Maria 198 4 4 6 6 1 6 9 8

JENNIFER DALEY

HAYWARD HATL OF JUSTICE HAYWARD HALL OF JUSTICE The name, address and telephone number of plaintiff's attorney, or plaintiff without an attorney, is, (El numbre, la direction y el número de teléfone del aboqueto del domandante, o del demandante que no tiene aboqueto (cs) DAMES T. LEE, SEN 110838

MARRETT DAFFIN FRAPPIER TREDER &
20985 PATHFINDER ROAD, SUITE 300
DIAMOND BAR, CA 91765 【梅花春》 随是"声"。 人士 A WEISS, LLP

(Must be an exercised and the component of the component (Must be answered in all cases). An uniawful detainer assistant (Bus. & Prof. Code, §§ 6400-6415). to compensation give advice of assistance with this form. (If plaintiff has recoived any help or advice for pay from an instantiff

(Fecha) (For proof of service of this summons, use Proof of Service of Summons (form POS-010).) (PRIH pruebo de entrega de esta citation uso al formulado Proot al Service of Summons, (POS-010)). ou are served

(u) su :	4 NOTICE TO THE PERSON SERVED: You are served
	a 🎋 as an individual defendant
	 b.i — as the person sued under their fictitious name of (specify)
	c , as an occupant
	d. : on behalf of (spoorty)

under: CCP 416.10 (corporation) CCP 416 20 (defunct corporation)

GCP 416.40 (association or partnership) CCP 415 46 (occupant)

by personal delivery on idalel:

CCP 416,60 (mmor)

CCP 416 70 (conservated) GCP 416 99 (puthorized person)

other (specify).

Propertial to

, Oppuly

(Adjunio)

Lors: Alberted for Medicatory Libra Judenii Gouera of Cumena SOM 130 Phon June 1 (1909)

39.05

SUMMONS-UNLAWFUL DETAINER-EVICTION

Cook of Chall throughout polarization and assistant

003	/(26

é	•		SUM-130
PI AIN	!!I-I-!Nomen!	Additional Parties Attachment form is LA	SE NUMBER
.21.7,	ached.		
DEFE	NDANT (Nama	H MARK SERRATO AND SANDRA J. SERRATO	ı
Ì			

- ы Unrawful detainer assistant (complete if plainfill has received any help or advise for pay from an unlawfu, (letting) (sesistant)
 - Assistant's name "
 - Telephone no..
 - Street address, city, and ZIP.
 - d. County of registration
 - ic. Registration no.
 - Registration expires on (date)

Permitted in

01/04/2013	Case3:13-c	v-01968-JCS	Document1	Filed04/30/13	Page8 of 38
V 1/ VY/ CV 10	13.9U FAI	4.4.4		r.	·

2004/026

		SUM-200(A)
SWORT THE HENC BANK USA.	NATIONAL AUSOCIATION, AS	CASE NI MUER
TRUSTEE FOR HOME COUITY	LOAM V. SERRATO, GC Al.	
	, , , , , , , , , , , , , , , , , , , ,	

INSTRUCTIONS FOR USE

- → tips form may be used as an attachment to any summons it space does not pormit the listing of all packes on the summons
- → If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Profiles. Attachment form is attached."

List additional parties (Check only one box	. Use a separate page for each type of party):
---	---

` X	Plaintiff	÷.	j	Defendant		Cross-Complainant	<u>L1</u>	Cross-Defendant
------------	-----------	----	---	-----------	--	-------------------	-----------	-----------------

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HEL

R

Page Ser 7.

•		CM-010
ATTOMET OF VANTY WITHIN ATTOMET FOR SAFEN	(perior, need teachers)	FOR EPURTINE ONLY
PARRETT CAFFIN FRAPPIER T	REDER & WEISS, TAP	
POSES PATHFINDER ROAD, SU PLAMOND BAR, CA 91765	ire suu	ENDORSED
IELEMANT NO 16261 915 5714	FAXNU (909) 595-7640	ALAMEDA COUNTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALA	MEDA 474	DEC 8 1 2012
MARING ANNESS NA 405 AMAINTR ST		i
DEANCHMAR HAYMARD, 93544	JUSTICE-HAYWARD HALL OF	EVERK OF THE SUPERIOR COURT
CASE NAME *** SEE ADDITIONAL	PAGE	
CIVIL CASE COVER SHEET	Complex Case Designation	CASL NAMES
. Unlimited X Limited (Amount (Amount	: ; Counter ! ; Joinder Filed with first appearance by defends:	HG18661699
demanded demanded is exceeds \$25,000 \$25,000 or less)	(Cal Rules of Coun, rule 3.402)	UFF)
, 1417-1	low must be completed (san instructions	on page 7)
1. Check one box below for the case type that		Provisionally Complex Civil Litigation
Auto 10rl , Auto (22)	Contract Breach of contract/warranty (05)	(Cal. Rules of Court, rules 3 400 3 4031
Uninsured molyanst (46)	Rule 3 740 noticedjung (09)	Antitius/Trade n gullation (03)
Other PVPD/WD (Personal Injury/Property	Other collections (00)	Construction defect (10)
Death) Tort	(naurance Coverage (18)	mont. Muss and (40)
, Asbestos (04)	Ciber Contract (37)	Securities (dispose in (26)
Product lability (24)	Repl Proporty	Covironmental Francisco (30)
Medical malpractice (45)	ក៏បានមេដី domaitrinyerse Condumnation (14)	insurance duver, go along aroung from the above listed provisionally complex case.
Other PRELEWO (20)	Wronglul evertion (33)	lyper (41)
Non-PVPDIWO (Other) Tori	Office real property (26)	Entorcement of Judgment
Pusingsyton/anthri busingsy produce (07)	Unlawful Dotainer	Enforcement of Judgment (20)
- (Jostinghis (OR) Detamation (13)	: Commercial (31)	Miscellopoous Civil (, emplain)
- Franci (16)	X Residential (32)	. KICO(77)
Intellection pointy (19)	: ' Drugs (38)	Other complaint (not aperilled above (47)
Professional negligence (25)	Judiciał Roylew	Miscellancous Civil Election
	: Asset fortestom (05)	Partnership and corporate governance (21)
Employment	Pelition re-arbitration award (11)	Up Other petition (r, st specified above) (43)
. Wronylottermenation (36)	Well of mandato (02)	
Office confloyment (15)	Other judical review (39)	
2. This case is X is not comp	lex under rule 3,400 of the California Ru	iles of Court. If the case is complex, mark the
factors requiring exceptional judicial manag a Large number of separately repres	enten. ented pantes di largo number (of witnesses
b Extensive motion practice raising a		ith related actions pending in one or more courts
issues that will be lime-consuming		es, states, or countries or in a lederal court
c Substantial amount of documentar	y evidence f Substantial per	shindament judicial si besvisiro
3 Remedies snught (check all that apply): a	X monetary b X /housenectary; b	ociaratory or injunctive relief in a partitive
4. Number of causes of action (specify)* ON		
- 134, W	d serve a series of select ones. (Yeur and	na non from 714 715
 If there are any known related coses, file an Date DECEMBER 21, 2012 	diserve is minice of related case, (1017)	7 130 1000 (NO 1010)
PAMES T. LEE, SUN 110838		<i>7)</i>
CLASS ON HIGH NAME:	(SOLE)	NATURE OF PARTY OF A 11 PHRY LUK PANTY:
the state of the s	NOTICE	
 Plannili must the this cover sheel with the fir under the Probate Code, Family Code, or W 	si paper illed in the action of proceeding fellero and Institutions Code) (Cal. Rules o	dexcept small claims cases or cases need of Court, rule 3 220) Failure to file may tesuit
in sanctions	•	
File this cover sheet in addition to any cover	sheet required by local court rule	Arest pages or pages of this accuse phone on with
 If this case is complex under rule 3 400 et so other parties to the action or proceeding. 	ец от гле Сапнотова дина от Соил, уой п	erret service et dobă de tine doach, 20est na un
. Unless this is a collections case under rule	3,740 or a complex case, this cover shee	t will be used for statistical purposes only
	·	(that i oper)

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to complete statistics about the types and members of cases filed. You must complete items 1 (brough 6 on the sheet, to tem 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case fisted in from 1 check the more specific one. If the case has multiple causes of aution, check the box that best indicates the primary cause of aution To assist you in completing the sheet examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be tiled only with your initial paper Follure to file a cover sheet with the first paper filed in a civil case may subject a party its counsel, or both to sanctions under rules 2.30 and 3,220 of the California Rules of Court

To Parties in Rule 3,740 Collections Cases. A "collections case" under rule 3,740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fixes, arising from a transaction in which properly, services, or money was acquired on credit A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a projudgment will of attachment. The identification of a case as rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and pase management rules, unless a defendant files a responsive pleading in rule 3,740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3 740

To Parties in Complex Cases. In complex cases only, parties must also use the Chal Case Cover Short in designate whether the case is complex. If a plaintiff believes the case is complex under rule 3,400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet, must be served with the complaint or all patties to the action. A defendant may ble and serve no later than the time of its first approximate a jointlet in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex CASE TYPES AND EXAMPLES

hoT atuA

Auto (22)-Personal Injury/Property Damone/Wronoful Death Uninsured Molonal (46) (if the case envolves an uniosurad ยโ โว**ด**เดิงซ มนะโล โลทัดสดเต arbdrotion, cheark this stem instead of Auto)

Other PRPDIVID (Personal Injury) Property Damage/Wrongful Death)

Anbeutus (04) Asbestos Property Damage Achiestos Personal Injury Wronglul Death

Product Liability (not aspestos or textelenvironmontal) (24) Medical Malpractice (45)

Medical Mainrachte-Physicians & Suggens

Other Professional Health Com-Malprotrice

Cition PVPDAVD (23)

Premies Liability (e.g., slap and faill

Intermenal Bodily Inpay/PDAVD (e.g., ascault, vandalism)

intentional Infliction of Emotional Distreus

Negligent tuttichen of Emorgonal distress

Other PRINCIPAL

Non-PVPDWD (Other) Tort

Business TorMinion Business Penchan (07)

Civil Rights to g., discrimination, laise orrest) (not civil

harnsymont) (08) Octomation (e.g., stunder, libel)

(13) Fraud (15)

Intellectual Property (19)

Professional Negligerice (25)

Legal Malpracince Other Professional Malpreciate

(not medical or legal)

Other Non-PYPDAVID Tort (\$5)

Cmploymuni

Wignight Terminohon (36) Qual Employment (15)

Broach of Contract/Warranty (06)

Breach of Renfallease

Contract (not unlawful detoine) or wronglut eviction)

Contract/Wattanly Breach-Seller Plantiti (not fraud or regigence) Negligent Breach of Contract/

Warranty Other Breach of Contract/Worrnnly

Collections (e.g., money award open (90) (elaugnap food

Collection Case-Seller Plaintill Other Promissory Noto/Collections Case

Insurance Coverage (not provisionally

complex) (18) Auto Subrogation

Other Coverage Other contract (37)

Controctual Fraud Other Contract Dispute

Roal Property

Emmant Domantinverse

Condensation (14)

Wrongful Eviction (33)

Other Real Property (c.g., quiet fille) (26) Wal of Possession of Roal Property

Manyage Paraclesure

Quict File

Other Real Property (not eminent doment, landlord/femunt, or

(uraciosura)

Unidwful Detainer

Commercial (21)

Financial (32)

Drugs (38) (if the case involves illegal drugs, check this item; otherwise. report as Commercial or Husidential)

Judicial Review

Asset Forterture (0%)

Pelition Ro. Arbitration Award (11)

Wist of Mandate (02)

Will Administrative Mandannus

Wid-Mondamus on Limited Court Case Matter

With Other Lumled Gourt Cash

Rovew

Other Justicial Review (39)

Review of Health Officer Order Notice of AppenHubber

Соптиноваг Арренія

(urpury Lam provisionally complex caso type, heldel above) (45)

Enforcement of Judgment tion in the property of the magnifical

Abstract of Japaneses (Our of

Provisionally Complex Civil Litigation (Cat.

Antitrost/Lugle Regulation (03)

Claims Involving Mass Ten (40)

Environmental Toxic Fait (30)

Insurance Coverage Claims

Rujus of Court Rules 3,400-3,403)

Construction Diffect (10)

Securities Lagration (28)

County?

Confession of Justiment (min

duriestic (diations)

Sister State Judgment

Administ abve Agency Award

Inc. unjured taxes)

Petitiseff entirentian of £ nov of Judyment on Unperd Taxes

Other Enforcement of Jedgment

Ca u

Miscellannous Civil Complaint

RIGO (27)

Other Comple of (rio) specified

above) (47)

Declaratory Relief Only

Injunctive Ratio! Only (non-

ha.assmont)

Mechanics Lien

Other C.-mmergial Complaint Case (non tonthon-complex)

Other Cori Complaint

(Achilottinan-complex)

Miscellangous Civil Peblion

Pudnership and Corporate

Governance (21)

Other Petalas look specified

abovel 131

Civil alphagement

Workplace Violence

Fider/Directors Adult

Atuske

Election Contest

Petition for Nume Change

Petition for Rebel From Late

Clutto

Other Cavil Publish

CIVIL CASE COVER SHEET

Page 2 of 1

Ø 007/02B

*	•
AS SI	ORTITLE ESBC BANK USA, ATTONAL ASSOCIATION, C. NUMBER TRUSTEE FOR HOME EQUITY LOAN V. SERRATO, -1.
1	CASE NAME
Z	HOBO BANK USA, NACTONAL ASSOCIATION, AS TRUSTEE FOR HOME (QUITE FOR)
3	v. SERRATO, et al.
4	
5	
6	
'	
9	
10	
11	
12	
13	
14	
15 16	
17	·
18	
19	
20	
2!	
12 -	
23	

(Required for verified pleading) The items on this page stated on information and belief Am (speedy item numbers, not line

This days may be mend with any Judicial Council form or any other paper liked with the coun-

Page 3 of 3

Loren Appropria De Pro Judeali d'America d' Carlotte (Altres follos de Proprie L. 1987)

24 25 25

27

ADDITIONAL PAGE
Attach to Judicial Council Form or Other Court Paper

Ø 008/026

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUM	BY COURT ORDER. READ THIS FORM IF YOU HOUSEND COMPLAINT.
If you live here and you do not complete and submit this form within you will be evicted without further hearing by the court along with the 2. If you file this form, your claim will be determined in the eviction action again if you do not tile this form, you will be evicted without further hearing.	e persons named in the Surmons and Complaint. ast the persons named in the Complaint.
CLAIMAGHT OR CLAIMANTS AT ICHMI Y (Name and Address)	LIFTHONE MED FOR COUNT USE ONCY
ATTEMANY 1 (M) (Name)	
NAME OF COURT: SUPERIOR COURT OF THE STATE OF CAL HIRLIADHESS COURTY OF ALAMEDA MAINTENANCE OF AMADOR ST MINING SUPCORF HAYWARD, CALIFORNIA 94544 MANDER AMADOR HALL OF JUSTICE-HAYWARD HA PLAINTIFF, *** SEE ADDITIONAL PACE***	
DEFENDANT MARK SERRATO; SANDRA J. SERRATO; on	d DOES 1
to 10, inclusive	CASI MUMISING
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION	The second
LUEDODOMICAL OCCURROL (OCCURROL)	The second and other site and servers.
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detain tion) Complaint was filed. 3. You still occupy the premises.	OATE OF SURVICE (Date that the form is served a dimensely and posted and implied by the obligate to propose server.)
DECLARE THE FOI LOWING UNDER PENALTY OF PERJURY.	The first personal particular personal
1 My name is (specify)	
t - Freside at (stroet address, unit No , city and ZIP code).	
3 The address of "the promises" subject to this claim is (address):	
On (innert date):, the tendlord or the tendlord or the tendlord or the possession of the premises. (This date is the court filing date on the occompa	indiord's authorized agent illed a complaint to recover nying Summuns and Complaint)
$\delta = 1$ occupied the premises on the date the complaint was filled (the date in item ϵ	f) Those continued to occurry the promises ever since
5 I was at least 18 years of ago on the date the complaint was filled (the date in	
7 I claim a right to possession of the premises because (occupied the premises 4)	nises on the date the complaint was filed (the duty)
t was not named in the Summons and Complaint	
3 Londerstand that d Limake this claim of right to possession. Limit be added as	a defendant to the unlawful detainer revietiest action
(Filing Fee) Lundersland that I must go to the court and pay a filing lee of \$ "Application for Waver of Court Fees and Costs." I understand that if I for waiver of court less within 10 days from the date of service on this to make a claim of right of possession. (Continued on reverse)	or file with the court the form don't pay the filing live or the with thin court that form form (excluding court halidays), I will not be entitled
PREJUDGMENT CLAIM OF RIGHT TO PO	SSESSION Come of the other parties.
EVCA_ProjudgClaim RiPoss rpl (02/23/2011) / Vec-20 00000003439486	Page Let 3

2008/026

	PLANTET (Name) ** + SEE ADDITIONAL PAGE 1-4
	DEFENDANT (NAME) MARK SERRATO; SANDRA J. SERRATO; and
	NOTICE: If you fail to file this claim, you will be evicted without further hearing.
;	(Response required within five days after you file this form). I understand that I have five days (excluding co. I holidays) to tile a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.
Ž.	Rental Agroement. I have (check all that apply to you): a
d.	iclare under penalty of perpuy under the laws of the State of California that the forogoing is true and correct
	WARNING Perjury is a felony punishable by impresonment in the state crision
	Date:
	NOTICE: If you file this claim of right to possession, the unbawful dotainer (eviction) action against you will be determined at trial. At final, you may be found liable for rent, costs, and, in some
	cases, Iroble domages.
	- NOTICE TO OCCUPANTS -
	YOU MUST ACT AT ONCE if all of the following are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date in the court filing date on the accompanying Summons and Complaint.) 3. You still occupy the premises.
	(Where to file this form)— You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the teverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.
	What will happen it you do not file this form). If you do not complete and submit this form (and pay a liting lee or the thre

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right

to occupy the premises will be decided by the court. If you do not file this claim, you will be evicited without a horizing

from for proceeding in forms paupers if you cannot pay the fee), YOU WILL BE EVICTIO

M 010/026

SHORT THE HEBC HANK USA, NATIONAL ASSOCIATION, AS RUSTED FOR HOME EQUITY LOAD V. SERRATO, 66 al. CASE HUMB: 18

PLAINTIFFS

þ

3

4 5 6

8 ÷ 0

i

3

Ü 1 8

Ļķ ·O :1 01 1 ü 14

16

17

HISRO BANK USA, NATIONAL ASSOCIATION, AS TRUSTED FOR HOME EQULLY LOAD THUST SERVED ACK 2006-HED

(Required for verified plauding) The items on this page stated on information and belief are (specify dum numbers, not the cumbers)

This page may be used with any Judicial Council form or any other paper liked with the count

higash diggaranda pig blet Sandriga Phonesia di digbiggisak Ngji Sang Jakos — Apsamy (* 1885)

ADDITIONAL PAGE Attach to Judicial Council Form or Other Court Paper

Page 3 of 5

JAMES T. LEE
State Bar No. 110838
BARRETT DAFFIN FRAPPIER
TREDER & WEISS, LLP
20955 Pathfinder Road, Suite 300
Diamond Bar, CA 91765
(626) 915-5714 - Phone
(909) 595-7640 - Fax
JAMESL@BDFGROUP.COM

ENDORSED FILED ALAMEDA COUNTY

DEC 8 1 2012

OLERK OF THE SUPERIOR COURT By Summer Balley: Beputy

Attorneys for Plaintiff

2

3

4

5

6

7

Ŕ

()

10

11

12

13

14

15

16

17

18

19

30

21

22

23

24

25

26

27

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF ALAMEDA, HAYWARD HALL OF JUSTICE

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HEI HG12661699

CASE NO.

COMPLAINT FOR UNLAWFUL DETAINER

(DEMAND UNDER \$10.000)

Plaintiff',

VS.

(Action based on Cal. Code of Liv. Pro. §§ 116 lath)(3))

MARK SERRATO: SANDRA J. SERRATO: and DOES 1 to 10, inclusive.

Defendants.

Plaintiff alleges the following:

16

1. Plaintiff HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTED FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HELT is the current owner of certain real property and improvements thereon commonly known as 19390 COREY WY, CASTRO VALLEY, CALIFORNIA 94546 following a non-judicial foreclosure sale held in accordance with

COMPLAINT FOR UNLAWFUL DETAINER

;

 California Civil Code §§ 2924 et seq. Plaintiff's title was duly perfected by Trustee's Deed Upon Sale recorded on November 16, 2012 as Instrument No. 2012385299 in the Office of the Alameda County Recorder, a true and correct copy of which is attached herete as Exhibit "1" and incorporated herein by this reference.

- 2. Defendants, MARK SERRATO AND SANDRA J. SERRATO, are the current occupants of the real property and were the original trustors under the forcefosed deed of trust or the successors-in-interest to such original trustors and the fast vested owners of record as of the forcefosure sale date.
- 3. The true names and capacities, whether individual, corporate, associate or otherwise of defendants named herein as DOES 1 through 10, and of each of them, are unknown to plaintiff who therefore sucs said defendants by their fictitious names as allowed by California Code of Civil Procedure § 474. Plaintiff asks leave of the court to amend its complaint to include the true names and capacities of said defendants when the same have been ascertained.
- 4. Plaintiff is informed and believes and based thereon alleges that each defendant sued herein as DOE 1 through 10, inclusive, claims a possessory interest in the real property hereafter described as a tenant or successor-in-interest to the former owner.
- 5. On December 10, 2012, Defendants, MARK SERRATC AND SANDRA 1 SERRATO, were duly served in the manner prescribed by Cal. Code of Civ. Pro. § 1162 with written notice demanding that they surrender possession of the real property to plaintiff not later than three days following service of said written notice. True and correct copies of said written notice with corresponding proof of service are attached hereto as Exhibits "2" and "3." respectively

26

27

and incorporated herein by this reference.

- 6. More than three days have clapsed since the service of said written notice, but defendants have failed and refused to surrender possession of said real property and continue to occupy the real property without plaintiff's authorization or consent.
- 7. The fair and reasonable rental value of the real property is \$50.00 per day. Plaintiff is entitled to recover a money judgment against defendants for their continued occupancy of the real property at this daily rate from and after expiration of the notice to quit through the date of judgment.
- 8. Plaintiff is entitled to restitution and possession of the real property from defendants named herein pursuant to California Code of Civil Procedure §§ 116 (ath)(3) and therefore requests a judgment enforceable by any authorized law enforcement agency.

WHEREFORE, plaintiff prays judgment as follows:

- For judgment awarding plaintiff restitution and possession of the real property:
- For monetary damages according to proof;
- 3. For costs of soit incurred herein;
- 4. For such other and further actief as the court deems proper.

25 |

Date: December 21, 2012

JAMLS F. L.L. Anomeys for Plainti T

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LEP

SDX€-110838

COMPLAINT FOR UNLAWFUL DETAINER

para des

VERIFICATION

) A STATE OF THE PARTY OF THE P	toper to an except	and know its co	ntents
CHECK APPLICAB				
I am a parly to this action. The matters stated in the formatters which are stated on information and belief, and as to			idedge except as	ito Buss
	mosc mares i charact		z	
tani an Officer a partner	H	·· ·· ·· ·· ·	•	
party to this action, and am authorized to make this ver	fication for and on its I	behalf, and I ma	ke this vertical	on for the
euson I am informed and believe and on that	ground allege that the n	rallers stated in :	ne loregoing dad	ganeet at
rue. The mallers stated in the foregoing document	ne true of my own know	ledge, except as	to those matters	which are
itated on information and belief, and as to those matters I be	heve thight to be true			
Lam one of the alterneys for HSBC BANK USA.	<u>YNTX</u> ONAL <u>ASS</u> ŶC	CINCION, A	N TRUSTEL	1.1.1
party to this action. Such party is absort from the court as verification for and on behalf of that party for that re-	y of aloresald where st	en blomeys nav	o mair offices, a	ng i mak Sisas de
his verification for and on behalf of that party for that re- ho mallers stated in the foregoing document are true.	ann i am inioimeo fi	no believe and	att tust ilterior	madhe ans
executed on CHICEMPER 21, 2012 ,4	DIAMOND BAR		, Ca	ddama
declare under penalty of perjury under the laws of the State	of California that the fore	egoing is true an		
		~	n	
IMES T. LEE, SBN 110838		Suppleme		
•	E OF THE PARTY OF	. Anguarane		
	F SERVICE			
STATE OF CALIFORNIA, COUNTY OF			Carrent of the	ومؤور ومراويات
I am employed in the county of	n bermann addessa is:	**************************************	State of C	mance ma,
am over the age of the and not a party to the wante action, it	ik mismess and ass is			
On, I served the	oregoing document dos	cribed as		,, ,
17 - 1	TATOMALAN I	, , , , , , , , , , , , , , , , , , , ,		
17	**************************************			
On.		* 154 c establishment of the 1.5	in ha	s action
by placing the true copies themol enclosed in sealed envelo	oes addressed as stated	on the attached	mailing list	
by placing the true copies themol enclosed in shaled envelopy placing [] the original [] a true copy thereof en	pes addressed as stated closed in sealed envelop	on the attached ses addressed v	mailing list clotiows	
by placing the true copies thereof enclosed in sealed envelo	oes addrosaed as slated closed in sealed envelop	on the attached ses addressed r	mailing list i follows	
by placing the true cupies thereof enclosed in sealed envelopy placing the original a true copy thereof en	oes addrosoed as slated closed in sealed envelop	on the alluched ses addressed r	mailing list clatiows	
by placing the true copies themol enclosed in sealed envelopy placing [] the original] a true copy thereof en	oes addrossed as slajed closed in sealed envelop	on the attached ses addressed v	mailing het s follows	
by placing the true copies themol enclosed in sealed envelopy placing [] the original] a true copy thereof en	oes addrossed as slated closed in sealed envelop	on the attached ses addressed v	mailing het : follows	
oy placing [] the original a liue copy thereof an	oes addressed as slated closed in sealed envelop	on the attached ses addressed v	mailing het s follows	
by placing [] the original a line copy thereof an	oes addressed as slated closed in sealed envelop	on the attached ses addressed v	c fallaws	
BY MAIL deposited such envelope in the mail at	closed in sealed envelop	on the attached voca addressed v	c fallaws	
BY MAIL i deposited such envelope in the mail at the envelope was mailed with postage thereon fully prejudent.	closed in sealed envelop	ocs addressed v	s follows	California
BY MAIL 'I deposited such envelope in the mail at I've envelope was mailed with postage thereon fully prof As tollows: am "readily lamilier" with the firm'	closed in sealed enveloped. Paid. Practice of collection is	oos addressed v	cipliows	California or mailing
BY MAIL "I deposited such envelope in the mail at I've envelope was mailed with postage thereon fully prepared in the mail at I've envelope was mailed with postage thereon fully prepared in the limit of the lim	closed in sealed enveloped. Paid. I practice of collection to that same in the ordinary course of	one addressed a-	correspondence to the total on mo	California or maeling prepard a tion of th
BY MAIL I've envelope was mailed with postage thereon fully prepared that proclice it would be deposited with the U.S. postage thereon fully prepared that proclice it would be deposited with the U.S. postage thereon fully prepared that proclice it would be deposited with the U.S. postage thereon fully prepared that proclice it would be deposited with the U.S. postages the proclean presumed invalid it postal cancellate.	closed in sealed enveloped. Paid. I practice of collection to that same in the ordinary course of	one addressed a-	correspondence to the total on mo	California or maeling prepard a tion of th
BY MAIL ' i deposited such envelope in the mail at the envelope was mailed with postage thereon fully prepared that practice it would be deposited with the tirm' and envelope it would be deposited with the U.S. postage thereon fully prepared that practice it would be deposited with the U.S. postage they proceed, service is presumed invalid it postal cancellate postal or mailing in offidavit.	closed in sealed enveloped. Paid. Practice of collection is a service on that same in the ordinary course of too date or postage met	and processing to day with post- in business. I am a ler date is more	correspondence to the total on mother than one day all	California or maeliis prepaid a tion of th len dato r
BY MAIL "I deposited such envelope in the mail at the envelope was mailed with postage thereon fully properties that practice it would be deposited with the tirm' and served, service is presumed invalid it postal cancellate eposit for mailing in affidavit.	closed in sealed enveloped. paid. practice of collection is lat service on that same in the ordinary course of ion date or postage mail	and processing to day with post- polynomes. I am aler date to more	correspondence to the total on mother than one day all	California of mailing prepara tion of th er data (
BY MAIL I't deposited such envelope in the mail at line envelope was mailed with postage thereon fully prepared in the procince it would be deposited with the U.S. postarty served, service is presumed invalid it postal cancellate aposit for mailing in affidavit. **RECORD According to affidavit. **Couled on	closed in sealed enveloped. practice of collection is tall service on that same in the ordinary course of ion date or postage met	and processing to day with post- jobusiness. I am aler date is more	correspondence to the term of	California of maeling prépad d tion of th er dato r Californii
BY MAIL I't deposited such envelope in the mail at the envelope was mailed with postage thereon fully project that the U.S. postage they provide it would be deposited with the U.S. postage they provide it would be deposited with the U.S. postarty served, service is presumed invalid it postal cancellate aposition mailing in affidavit. [xecuted on	closed in sealed enveloped. I practice of collection that same the ordinary course of in date or postage met by hand to the offices of the ordinary course o	and processing to day with post your day with post your day and a more than a day and	correspondence i ge thereon folly sware that on mo then one day all	California of maeling prépad d tion of th er dato r Californii
BY MAIL I deposited such envelope in the mail at The envelope was mailed with postage thereon fully project that the transition of the mail at the envelope was mailed with postage thereon fully project that procifed it would be deposited with the U.S. postarty served, service is presumed invalid it postal cancellate the original and another than a procine or mailing in affidavit. Executed on	closed in sealed enveloped. a practice of collection at last service on that same the ordinary course of ion date or postage met by hand to the offices of the State of California.	and processing to day with post of business. I am a let date is more than addressed.	correspondence to the following thereon fully aware that on mother one day all true and correct.	California or mæling prepart i tion of th er dato r California California
BY MAIL "I deposited such envelope in the mail at the envelope was mailed with postage thereon fully prepared in the envelope was mailed with postage thereon fully prepared in the transfer of the envelope was mailed with postage thereon fully prepared in the transfer of the U.S. postage that the U.S. postage is presumed invalid it postal cancellate the mailing in affidavit. California in the postage of	closed in sealed enveloped. a practice of collection at last service on that same the ordinary course of ion date or postage met by hand to the offices of the State of California.	and processing to day with post of business. I am a let date is more than addressed.	correspondence to the following thereon fully aware that on mother one day all true and correct.	California or mailing prepart a tion of th er dato r California California
BY MAIL I't deposited such envelope in the mail at The envelope was mailed with postage thereon fully prepared in the transport of the firm's postage thereon fully prepared with the U.S. postage that practice it would be deposited with the U.S. postarty served, service is presumed invalid it postal cancellate the postal cancellate postal for mailing in affidavit. Executed on	closed in sealed enveloped. a practice of collection all service on that same the ordinary course of ion date or postage met by hand to the offices of the State of California.	and processing to day with post of business. I am a let date is more than addressed.	correspondence to the following thereon fully aware that on mother one day all true and correct.	California or mailing prepart a non of th er dato r California California
BY MAIL ' I deposited such envelope in the mail at the envelope was mailed with postage thereon fully prepared in the envelope was mailed with postage thereon fully prepared in the envelope was mailed with postage thereon fully prepared in the time of the U S postage in the postal cancellated and the postage in affidavit. California in the California in the call of	closed in sealed enveloped. a practice of collection all service on that same the ordinary course of ion date or postage met by hand to the offices of the State of California.	and processing to day with post of business. I am a let date is more than addressed.	correspondence to the following thereon fully aware that on mother one day all true and correct.	California or mailing prepart a non of th er dato r California California

COPY of Document Recorded

at Alameda County Recorder

2012385299

11/16/2012

has not been compared with original Original will be returned when process has been completed.

Fee: 21.00

DTT: 0.00

Total

21.00

HSBC BANK LISA, NATIONAL ASSOCIAG ID CO 50X 2193 RUPFALO NY 14240

WHEN RECORDED MAIL TO AND MAIL

RECORDING REQUESTED BY:

15000 Surveyor Blvd., Suite 500

15 No 20096134002331

Older No. 913869

NDEX WAIL LLC

Arklason, Texas 75001

TAX STATEMENT TO:

quite phose this line in the Research's to e emby

CORRECTIVE TRUSTEE'S DEED UPON SALE

This Trustees Deed Upon Sale is being recorded to replace the Trustees Deed Upon Sale recorded on August 27, 2012 as Instrument No. 2012279879 to correct the Granice Nana.

The undersigned granter declares:

- 1) The Grantse herein WAS the foreclosing beneficiary
- The amount of the unpaid debt together with cost was:

\$557,171.69

The amount paid by the grantee at the trustee sale was:

\$350,000.00

- The documentary transfer tax is 50.00
- 5) Said property is in the city of CASTRO VALLEY
- APN #084C-0783-012

and NDEX West, L.L.C (herem called Trustee), as the duly appointed Trustee under the Deed of Trust hernicalites described, does hereby grant and convey, but without coverant or warranty, express or implied, to:

HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE FOR ACE SECURITIES CORP. HOME EQUITY LOAN TRUST, SERIES 2006-HEL, ASSET BACKED PASS-THROUGH CERTIFICATES

(herein called Granten), all of us right, title and interest in and to that certain property simulad in the Courty of ALAMEDA. State of California, described as follows:

"See Legal Description Attached as Exhibit 'Att

RECITALS:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dried 10/13/2005 and executed by MARK SERRATO AND SANDRA L SERRATO Trustor(s), and recorded on 10/27/2005 as Instrument No. 2005462885 of official records of ALAMEDA County, California and after toldillment of the conditions specified to said Deed of Trust anthorizing this conveyance.

Default occurred so set forth to a Notice of Default and Election to Sell which was recorded in the Office of the Resender of said County, and such default still existed at the time of sale.

All requirements of law regarding the mailing of copies of notices of the publication of a copy of the No tea of Default of the possinal delivery of the copy of the Notice of Default and the pushing and publication of copies of the botice of a Sale have been complied with.

Case3:13-cv-01968-JCS Document1 Filed04/30/13 Page20 of 38

₩015/026

EXHIBIT 1

01/04/2013 15:44 FAX

图 017/028

TS No. 20090134002331

Trustee, in compliance with said Notice of Trustee's Sale and in exercise of its powers under said Deed of Trust, sold the herein described property at public anction on \$122/2012. Granton, being the highest hidder at said sale, became the purchases of said property for the amount hid being 5358,000,00 in lawful mancy of the United States, or by credit bill if the Grantee was the beneficiary of said Deeden! Trust at the Time of said Trustee's Sair

Dated: November 14, 2012

MOEL

Gistant Director Operations

STATE OF TEXAS

COUNTY OF DALLAS

On November 14, 2012 before me, Rebages Ann Hetherington, personally appeared Ricardo Juarez, Assistant Director, Operations, who proved to me on the basis of satisfactory evidence (identified by TX D).) to be the person s) whose name(s) istare subscribed to the within inginiment and acknowledged to me that helsholthey executed the same in higher/their authorized enposity(ies), and that by his/her/their signature(s) on the marumont the person(s), or the entity upon bulled of which the person(s) setted, executed the instrument.

I countly under PENALTY OF PERRIRY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Rebecce Ann Helherington Notary Public State of Texas

Ø 018/026

TS No., 20090134002331

Order No., 913869

EXHIBIT A

PORTION OF THE 1.20 ACRE TRACT OF LAND DESCRIBED IN THE DEED BY MARTIN I, MADISON TO FRED SMITH AND EMMA D. SMITH, DATED JUNE 15, 1943, RECORDED JUNE 26, 1943 IN BOOK 4376 OF OFFICIAL RECORDS OF ALAMEDA COUNTY, PAGE 275, UNDER SERIES NO. 00/31097, DESCRIBED AS POLICYS.

BEGINNING AT THE INTERSECTION OF THE WESTERN LINE OF SAID 1.20 ACRE TRACT WITH NITTIE NORTHERN LINE OF HEYER AVENUE OR COUNTY ROAD NUMBER 76%; RUNNING THENCE ALONG SAID LINE OF HEYER AVENUE 86 DEGREES 45' EAST, 89.82 FEET; THENCE NORTH 3 DEGREES 15' EAST, 115.50 FEET; THENCE NORTH 86 DEGREES 45' WEST, 89.82 FEET TO THE WESTERN LINE OF SAID 1.24 ACRE TRACT, AND THENCE ALONG THE LAST NAMED LINE SOUTH 3 DEGREES 15' WEST, 115.50 FEET TO THE POINT OF BEGINNING

Ø 019/028

EXHIBIT 2

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP

ላ ምልጽ ተሚያነትመን የሚግ መነጭነት የሚያቸና የሚያነፋልን የመድርጅ ልሽ ሙያ

ATTORNEYS AND COURSELURS AT LAW

MESS PATTRINIPER ROLAD SOFF OR PIAMOND BAR CALDORN A SURS PELIDIBOSE, QUASSIS 4213 TELECOPER (909) 595-7640

December 07, 2012

NOTICE TO ANY RENTERS LIVING AT PROPERTY: 19390 COREY WY, CASTRO VALLEY, CALIFORNIA 04546

Our File No.: 00000003439486

The attached notice means that your home was recently sold in forcelosure and the new owner plans to evict you.

You should talk to a lawyer NOW to see what your rights are. You may receive court papers in a few days. If your name is on the papers it may hart your credit if you do not respond and simply move out.

Also, if you do not respond within five days of receiving the papers, even if you are not named in the papers, you will likely lose any rights you may have. In some cases, you can respond without burting your credit. You should ask a lawyer about it.

You may have the right to stay in your bonne for 90 days or longer, regardless of any detailines stated on any attached papers. In some cases and in some cities with a "just cause for exection law," you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

You may have the right to stay in your home for longer than 90 days. If you have a lease that ends more than 90 days from now, the new owner must bonor the lease under compeleromistances. Also, in some cases and in some cities with a "not cases for eviction law," you may not have to move at all. But you must take the proper legal steps in order a protect your rights.

linw to Get Legal Help

If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.fawhelpen.org), the California Courts Online Self-telp Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association

Barrett Daffin Frappier Treder & Weiss, LLP

ሲ የላዊ (ዲያምር) በም በታቸው ነገር ነው። የማርበር የአመር አል ታ ርስታ ነው ቀ በቁጥሎ

ACTORNEYS AND COMPRELORS A DUAW

STOREGARD OF SEASON OF SEA

December 07, 2012

MARK SERRATO AND SANDRA J. SERRATO AND OTHER UNKNOWN OCCUPANTS 19390 CORRY WY CASTRO VALLEY, CALIFORNIA, 94546

> THREE DAY NOTICE TO QUIT (Code Civ. Proc. §§ 1161a(b)(3); 15 U.S.C. §§ 5201, 5220)

YOU ARE HEREBY NOTIFIED that HSBC BANK USA, NATIONAL ASSOCIATION, AS IRUSTEE FOR HOME EQUITY LOAN IRUST SERIES ACE 2006-HE is the new owner of the real property located at 19390 COREY WY. CASTRO VALLEY, CALIFORNIA 94546 (the Property"), having sequired title at or following a non-judicial foreclosure sale held in accordance with Co. Code § 2924 et seq. under the power of sale contained in that certain Deed of Trust evented by MARK SERRATO AND SANDRA J. SERRATO, as trustor, and recorded on Onlober 27, "005 as historiaent No. 2008462885 in the Office of the ALAMEDA County Recorder. The new owner's title has been duly perfected by Trustee's Deed Upon Sale, or by Grant Deed, recorded in the Office of the ALAMEDA County Recorder. State law allows the new owner to remove tenants or subtenants Is, appropriate legal action onless local ordinances impose just cause eviction controls. Federal law provides additional protections for certain "bona fide" tenants under the Protecting Tenants at Foreclosure Act of 2009 and tenants who receive federally-subsidized housing assistance under Section 8 of the United States Housing Act.

YOU ARE FURTHER NOTIFIED that your occupancy rights shall reminant effective HIRLS. (3) calendar days after service of this Notice. You must vacate and surrender possess on of the Property before that date, or we will commence legal proceedings against you to declare your occupancy rights forfeited, to obtain restitution and possession of the Property and to obtain a money judgment against you for holdover damages and recoverable court costs.

IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS: PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF APT

If you are a servicemember on "active duty" or "notive service," or a dejendent of such a servicemember, you may be entitled to certain legal rights and protections, includicy protection from eviction, pursuant to the Servicemembers Civil Relief Act (50 D.S.C. App. §§ 804-896), as amonded, (the "SCRA") and, possibly, certain related state statutes. Eligible service can include

- 1. Active duty (as defined in Section 101(d)(f) of Tale 10. United States Code) with the Army, Navy, Air Force, Marine Corps or Coast Guard;
- 2. Active service with the National Guard:
- Active service as a commissioned officer of the National Oceanic and Atmospheric Administration;
- 4. Active service as a commissioned officer of the Public Health Service; or
- Service with the forces of a nation with which the United States is affect in the prosecution of a war or military action

Eligible service also includes any period during which a servicemember is abrent from duty on account of sickness, wounds, leave, or other lawful cause.

If you are such a servicemember, or a dependent of such a servicemember, you should contact our eviction department at (626) 915-5714 to discuss your status under the SCRA.

BDFTW# 00000003439486

JAMES TILLE Alterneys for HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES AC / 2006-HEL

Abarrett, Dallan, Frappier, 20955 Pathlinder Road	•	Suito 300	(620	1390000 Nr 5)(215-5714	ाव्य तत्रामानाय तथा
Diamond Bar Attorney For PLANTEF	CA	91765	Pipe o	En New 24394	06
I MARKET CASE CONTRACTOR CO.	HSBC Bank USA, Na Mark Sciruto, of al.	tional Assentation		**************************************	•
PROOF OF SE		Calo .	Alteres	(2opt.#Div	NOTICE

 the undersigned declare that at the fime of the service of the paper. to, ; was at least EICHTEEN (18) years of ago, and that I beived the following motive:

Three Day Notice to Quit and Notice to Tenant Coversheet

On the tollowing tenant(s): Mark Gerrato

Address: 19390 Corey Wy

Castro Valley, CA 94546

Date and Time of Posting: 12/10/2012 at 12:25pm.

There being no person of murtably ago or discretion to be found at the property. and a husiness address could not be ascertained, survice was effected BY POSTING a copy for the above-named satisty(x) in a conspicuous place on the property therein described, and therestter by MALLING by first-class mail on said date a copy to each entity(s) by depositing said copies in the U.S. Mail in a scaled envelopm with postage fully pre-paid, addressed to the above-named entity(s) at the place where the property is situated.

Marson Sorvery (name, address, and telephone No.);

Attorney Service of San Dimas

142 Past Bonito Avenue, #51 San Diness, CA 91773

(9691394-1262 Fax (9691394-1264

Fee for nervice \$ \$80,00

Andrew Williams

Registered California Process Screen

- (i) Independent Continutor
- (a) Pegestration No., 37
- (iii) County San Benito

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is this and correct.

Date: 12/13/2012

Judge Council to 19 POS UNI

Proof of Service

CONTRACTOR STATEMENT AT LAND

U

刀

ヹ

28

EXHIBIT B

超0002/0008

•				
1 2 3 4	Mark Serrato 19390 Corey Way Castro Valley, CA 94546 (510) 306-7409 Defendant, In Pro Per		ENDORSED FILED ALAMEDA COUNTY JAN 10 2313 CLERK OF THE SUPERIOR COUNT By Lanette Buffin, Deputy	
6				
7	SUPERIOR COURT			
8	COUNTY OF ALAMEDA - REN	E C. DAY	LDSON COURTHOUSE	
9	MODO DANK MOA MEGTONET) Case No	. нс12661699	
10	HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR		NT'S NOTICE OF DEMURRER	
11	HOME EQUITY LOAN TRUST SERIES	·	URRER TO COMPLAINT; DUM OF POINTS AND	
13	ACE 2006-HEI,	AUTHORI	TIES	
14	Plaintiff,) Date:	130/13	
15	vs.	Time: Dept:	31	
16	MARK SERRATO; SANDRA J.	}	Originally Filed in	
17	SERRATO; AND DOES 1 TO 10,	Hayward	Hall of Justice on	
18	INCLUSIVE) Decembe	r 31, 2012.	
19	Defendant(s).			
20	MA STATUMEN AND IME AMMODIL	eve or bi	rcorn.	
57	TO PLAINTIFF AND ITS ATTORNI			
22	PLEASE TAKE NOTICE that on			
23	or soon thereafter as it may be l	heard in	Dept 5 of the	
24	above-entitled court, located at	1225 Fa	llon St., Oakland, CA	
25	94612, Defendant, Mark Serrato, 1	hereinaf	er ("Defendant") will	_
26	present his Demurrer to Plaintiff	f, HSBC	BANK USA, NATIONAL	90
27				
28	DEFENDANT'S NOTICE OF DEMURRER AND MEMORANDUM OF POINTS AND AUTHORIS		RER TO COMPLAINT;	·

Kail House Plus

ASSOCIATION, AS TRUSTEE FOR HOME EQUITY LOAN TRUST SERIES ACE 2006-HEI, (hereinafter "Plaintiff") Complaint for Unlawful Detainer. The Demurrer will be based on Plaintiff's Complaint for Unlawful Detainer, the accompanying Memorandum of Points and Authorities, the records of the Court, and such other and further matters as the Court may consider at the hearing on the Demirrer. Dated: 1/10/13 Defendant, In Pro Per

1

2 3

5 6

7

В 9

10

11

12

1.3 14

15

16

17

18

19 20

21

22

23 24

25

26 27

28

DEMURRER

Defendant hereby specifically and generally demurs to the Complaint for Unlawful Detainer as follows:

Plaintiff's Complaint for Unlawful Detainer is defective in that the Notice to Quit was and is inappropriate and defective;

Plaintiff's Complaint for the Unlawful Detainer fails to state a cause of action against this demurring Defendant.1

WHEREFORE Defendant prays:

- 1. That the Demurrer is sustained without leave to amend;
- 2. That Plaintiff take nothing by way of its Complaint for Unlawful Detainer:
- 3. For costs of suit incurred, if allowed;
- 4. For such other costs and relief as the Court may deem just and proper.

Defendant, In Pro Per

1 CCP 5430,10(a)

DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

Mail House Plus

3

5

7

В

9

IO

11

12

13

14

15

16 17

18

19

20

21

22

23

24

25

26

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

The subject property was owned by the Defendant. The property was purportedly sold at a trustee's sale pursuant to an alleged notice of default and election to sell.

Defendant resides at the subject property and has been residing there since it was purchased as his sole residence.

On or about December 10, 2012, Defendant was allegedly served with a Notice to Quit. The Notice to Quit specified that the former owner was to deliver possession of the subject.

On December 31, 2012 Plaintiff filed its Complaint for Unlawful Detainer in the Alameda County Superior Court. On January 4, 2013, Plaintiff caused its Complaint for Unlawful Detainer to be posted upon the Defendant's door.

FIRST GROUND FOR DEMURRER

for Unlawful Detainer attaches Plaintiff's Complaint incorporates a 3 Day Notice to Quit. However, the Complaint for Unlawful Detainer specifically sets a daily rental value on the \$50.CO This language ostensibly per day. property οf characterizes the Defendant as a tenant.2

DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

² Civ. C \$1940

01/11/2013 15:34 FAX 5105817471

Dated: 11013

Mail House Plus

☑ 0007/0008

II.

Based on the foregoing, Defendant requests that his

Demurrer to Plaintiff's Complaint for Unlawful Detainer be

CONCLUSION

DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

sustained without leave to amend.

By: Servato

Defendant, In Pro Per

Whether consent and acceptance of rent created a landlordtenant relationship depends of course on the particular circumstances of each case.3

Consequently, Civ. C \$1946, Notice Required to Terminate Tenancy states:

A hiring of real property, for a term not specified by the parties, is deemed to be renewed as stated in Section 1945, at the end of the term implied by law unless one of the parties gives written notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of hiring itself, not exceeding 30 days; provided, however, that as to tenancies from monthly to month either of the parties may terminate the same by giving at least 30 days' writter notice thereof at any time and the rent shall be due and payable to and including the date of termination.

Code of Civ. Proc. \$1161 (2) states, in pertinent part, that: "When he or she continues in possession, in person or by subtement, without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, the name, telephone number, and address of the person to whom the rent payment shall be made..."

Therefore, the mere service of a Notice to Quit on Defendant was inappropriate and inadequate.

III///

21

22 23

24

25 26

27

28

Getz v. City of W. Hollywood (1991) 233 Cal. App. 3d 625, 630, 284 Cal. Rptr. 631

DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

1,

2

3

5

6 7

8 9

10 11

12 13

14 15

16

17

18 19

20 21

22 23

24

25 26

27

28

PROOF OF SERVICE

I am over the age of 18 and not a party to this action.

I am a resident of or employed in the county where the mailing occurred; my business/residence address is:

3,006 CKSTRO LALLEY BLUD #185 CASTRO VALLEY OF 94546

On TAN 10 2013 I served the foregoing document(s) described as: DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES to the following parties:

JAMES T. LEE

BARRETT DAFFIN FRAPPIER TREDER & WEISS, LLP 20955 PATHFINDER ROAD, SUITE 300 DIAMOND BAR, CA 91765 PHONE: (626) 915-5714 FAX: (909) 595-7640

- [x] (By U.S. Mail) I deposited such envelope in the mail at CASTACUALLY, California with postage thereon fully prepaid. I am aware that on motion of the party served, service is presumed in valid in postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- [] (By Parsonal Service) I caused such envelope to be delivered by hand via messenger service to the address above;
- [] (By Facsimile) I served a true and correct copy by facsimile during regular business hours to the number(s) listed above. Said transmission was reported complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: 1/10/13

STOR CHIWEREN

(NAME OF PERSON SERVING PAPERS)

DEFENDANT'S NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES

Form Approved by the Judicial Council of California UD-105 [Rev. January 1,2007]

ANSWER-Unlawful Detainer

Chill Code, \$1940 at seq. Code of Chill Procedure, \$ 425.12 www.comfinit.co.co.

			UD-10:
PLAINTIFF (Name): HSBC Bank U	SA, National Association, As Truste	e for Home Eq	
DEFENDANT (Name): Mark Serrato;	Sandra J. Serrato; and DOES 1 to 10	, Inclusive	HG12661699
AFFIRMATIVE DEFENSES (cont'd j. Facts supporting affirmative defe) enses checked above (identify each item sep	parately by its letter	r from page one):
	rongful foreclosure. Defendant believall the Defendant's attempts to work to		
(1) All the facts are stated in 4. OTHER STATEMENTS a. Defendant vacated the pb. The fair rental value of the pair stated in th		re continued in Atta essive (explain):	achment 3j.
c. Other (specify):			
habitable premises and e. Other (specify):	g.	rental value until ti	he conditions are corrected.
6. Number of pages attached (s			
7. (Must be completed in all cases) At	TAINER ASSISTANT (Business and Proferrunders) In unlawful detainer assistant I did retainer assistant I did retainer assistant I did retainer assistant I did retainer assistant I did retaines and retain	not did fi	or compensation give advice or
a. Assistant's name:	b. Telephone	No.:	
c. Street address, city, and ZIP:	Decisionies No.	• Carin	an an (data):
d. County of registration:	e. Registration No.:	i, Expire	es on (date):
Mark Serrato	>		
(TYPE OR PRRIT NAME)		(BKINATURE OF DEFENDANT	OR ATTORNEY)
	\		
(TYPE OR PROT NAME)		CORGONATURES OF DEFENDANT	OR ATTORNEY)
·	is filed must be named in item 1 and must si	gn this answer uni	ess his or her attorney signs.)
	,		
•	VERIFICATION on form if the verification is by an attorney or nd have read this answer. I declare under pe	·	· ·
am the defendant in this proceeding a	VERIFICATION on form if the verification is by an attorney or nd have read this answer. I declare under pe	·	· ·

•		POS-030
ATTORNEY OR PA Mark Serra	RTY WITHOUT ATTORNEY (Name, Sinte Bernumber, and address):	FOR COURT USE ONLY
· ·		
19390 Core		
Casuu van	ley, CA 94546	
	740 00 C 7/40	
	ONE NO.: 510-306-7409 FAX NO. (Optional):	
E-MAIL ADDREGS		
ATTORNEY FOR		
	COURT OF CALIFORNIA, COUNTY OF ALAMEDA	000
STREET A	DORESS: 1225 Fallon Street	
1	DRESS: SAIMC	
1	PCODE:Oakland, CA 94612	
	HNAME: NER/PLAINTIFF: HSBC Bank USA, National Association, as Trustee	
PEIIIQN	NEWPLAINTIFF: 113DC Dank COA, IVALIDHAL ASSOCIATION, as 11ustee	
RESPONDEN	T/DEFENDANT: Mark Serrato; Sandra J. Serrato; and Does 1 to 10,	1
	inclusive	
		CASE NUMBER:
	PROOF OF SERVICE BY FIRST-CLASS MAIL-CIVIL	HG12661699
	'	1303200.033
	(Do not use this Proof of Service to show service of a Summons a	and Complaint)
 I am over took place. 	18 years of age and not a party to this action. I am a resident of or employed	in the county where the mailing
2. My residen	nce or business address is:	
,		
	! mailed from <i>(city and state):</i> ng documents <i>(specify):</i> Unlawful Detainer	
	documents are listed in the Attachment to Proof of Service by First-Class Mail n POS-030(D)).	—Civil (Documents Served)
a. 🗾 de b pi bu pi	e documents by enclosing them in an envelope and (check one): apositing the sealed envelope with the United States Postal Service with the lacing the envelope for collection and mailing following our ordinary business usiness's practice for collecting and processing correspondence for mailing. Of aced for collection and mailing, it is deposited in the ordinary course of busine sealed envelope with postage fully prepaid.	practices. I am readily familiar with this n the same day that correspondence is
5. The envelo	pe was addressed and mailed as follows:	
a. Name d	of person served: James T. Lee	
	ss of person served:	
	t, Daffin, Frappier Treder & Weiss, LLP	
	Pathfinder Road, Suite 300	
	ond, CA 91765	
	915-5714	
The I	name and address of each person to whom I mailed the documents is listed in irst-Class Mail—Civil (Persons Served) (POS-030(P)).	the Attachment to Proof of Service
=	penalty of perjury under the laws of the State of California that the foregoing	s true and correct.
Date:		<i>)</i>
	L	
	MUCH SHIT MALE OF DESCRIPTION AND SHIT MALE HAVE THESE OF SHART THE SHA	05 OF 05000 0040 Files
TIVE OF		

JS 44 CAND (Rev. 12/11)

CIVIL COVER SHEET

ADR ECT

The 15 44 civil coveration and the information contained herein neither replace our supplement the filing and service of pleadings or other papers are required by law, except as provided by local rules of cont. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docker about. "SEE INSTRUCTIONS ON NEXT PLOS OF THIS FORM."

1. (5.1. BY ATRITICES.

I. (a) PLAINTIFFS HSBC Bank USA, Nation Loan Trust Series ACE 2		stee For Homa Equity	DEFENDANTS / Mark Serrato; San	I dra J. Serato; and Does	1 to 10, inclusive	
	of First Listed Plaintiff : _L REBETINGS PLANTIFF 62	('a'' '	County of Residence	County of Residence of First Listed Defendant Alameda. IN U.S. FLAINTIEF CASES ONED. NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF EAND INVOLVED.		
(c) Andhore Frim Home. Barrett Daffin Frappler Tr. 20955 Pathfinder Road. Diamond Bar. CA 91765 II. BASIS OF JURISD	Sulte 300		(Por Diversity Cores Daly)	(510) 396-7409 9454 6	(Pluse on "X" in One Box for Piciniij) and One Box for Outerdan) TTE DEF	
Philaidi 1 U.S. Dovernment Defendant	70:3: Government	Hal a Partylinda De not Parties in Isaa III)	episen af Thin State : C	1	tschpx(Piere D # D 4 i Stele Principel Plack D 5 D 5	
			Chizen ut Kubject of a C Fortiga Caustry	I 3 CI 3 Porsign Patilys	D S D F	
TV. NATURE OF SUF GUNTRACT D 110 Insurance D 120 Marine D 130 Marine D 130 Marine D 130 Represent of Occupations A Enforcement of Judgment D 132 Recovery of Occupations Supare Lours (Ext. Veterate) D 133 Recovery of Deputies Supare Lours Of Veterate a Benefits D 150 Successory of Occupations of Veterate a Benefits D 150 Successory of Occupations of Veterate a Benefits D 150 Successory of Occupations 1 155 Enrection 1 156 Financial 1 156 Financial 2 226 Formologies 2 226 Formologies 2 236 Kant Lours & Ejectment D 240 Toris to Land D 250 All Disper Kent Froperty	Place as "X" is One Sur I FERROMAL INJURY O 346 Airplane G 315 Aliplane Fraduct Linishiny G 120 Asqualt, Linish Singue G 330 Federal Employers Linishity G 340 Marine G 345 Marine Fraduct Linishity G 345 Marine Fraduct Linishity G 345 Marine Fraduct Linishity G 350 Marine Fraduct Fraduct Linishity G 350 Marine Fraduct Linishity G 350 Marine Fraduct Linishity G 362 Personal Injury Med Marineshity G 444 Cultural Fraduct G 443 Hussing Accommodations G 445 Amer. w/Dischillates Employment G 446 Amer. w/Dischillates G 446 Amer. w/Dischillates G 445 Education		FORFEITURE/FENALTY O #21 ft.org Anistad Science of Froporty 21 USC #21 O #90 Order LABOR O 710 Fair Lebor Standards Act O 720 Lebor/Mignit, Relejions O #40 Railway Labor Act O 751 Patrilly and Medical Leave Act O 751 Patrilly and Medical Leave Act O 751 Sample Ret Ingelius O #55 Other Ingelius	BANKRUPTCY D 422 Appeal A USC 138 C 423 Windrawat TE USC 155 PROPERTY BIGBTS D 530 Petial C 540 Tedemark SOCIALISCURITY C 601 MIA (1937) C 602 Ober Luag (921) C 603 DIN (1927) C 603 DIN (1927) C 605 RS1 (405(g)) FEBERAL TAX SUITS C 101 Taxes (U.S. Plathuit er Dobadano) C 811 USC 7609	OTHER STATULES OF STATULES ASO State & cappurison result A10 Sunts and Benking A10 Sunts and Benking A50 Commercia A60 Departation A60 Departation Common Organizations A80 Consumers Credit A90 Cubic/failty Exchange C \$90 Other Statutory Actions B91 Agricultural Ania S92 Environmental Matters B92 Environmental Matters B93 Environmental Matters Act Act Act C \$90 Administrative Procedure Act Actives of Appeal of Agency Decision C \$55 Constitutes C \$56 Constitutes Actives of Appeal of Agency Decision C \$56 Constitutes C \$56 Constitutes	
🗖 l Ongmal / 🗗 2 Rei	on Country of the U.S. Civil S 12 USC 5220 Brief described of Wrongful Eviction	Appellate Court tacate under which you are rause: I IS A CLASS ACTION	Reinstated or CJ 5 Transacoch Recoposed Security (Indiana)	stermen unless divorsity);	if demanded in complaint:	
VIII. RELATED CASE IF ANY	(8) (See lustractions):	NDGE		DOCKET NUMBER		
IX. DIVISIONAL ASS (Place an "X" in Our Box Or		R, 3-2) B <u>an erancisco/</u>	OAKLAND OSA	NJOSE C EUREI	(A	
DATE (4/20/2	013	SIGNATURE OF AT	TORNEY OF RECORD	Mark Serreto UNT LEGA	A TO	